

REMARKS

Claims 1-13, 16-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Bavykin et al. 09/751,654 Application (US 2003/0096229 A1). The Examiner has stated that this rejection may be overcome by a showing under 37 C.F.R. 1.131.

Enclosed herewith is a 37 C.F.R. 1.131 Affidavit executed by the Applicant showing that the invention date of the instant invention was prior to the effective U.S. filing date of the reference cited by the Examiner.

Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bavykin et al. 09/751,654 Application in view of Sheldon 4,617,261. The Examiner has stated that this rejection may be overcome by a showing under 37 C.F.R. 1.131 of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference.

Enclosed herewith is a 37 C.F.R. 1.131 Affidavit executed by the Applicant showing that the date of invention of the instant invention is prior to the effective U.S. filing date of the reference cited by the Examiner.


Claims 1-13, 16-18 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-27 of allowed Application No. 09/751,654 (Bavykin, et al.). Additionally, claims 14-15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-27 of allowed Application No. 09/751,654 (Bavykin, et al.) in view of Sheldon (U.S. Patent No. 4,617,261).

A terminal disclaimer is enclosed herewith, executed by the undersigned. Also enclosed is a statement per 37 C.F.R. 3.73(b). In light of the foregoing, Applicant respectfully requests that the double patent rejection be withdrawn.

An earnest attempt has been made hereby to respond to the rejections contained in the July 14, 2004 Official Action in this matter. It is submitted that all remaining claims are of proper form and scope for allowance. If the Examiner feels that a telephonic interview would expedite allowance of this application, he is respectfully

urged to contact the undersigned. Reconsideration and allowance of claims 1-18 are hereby solicited.

Respectfully solicited,
CHERSKOV & FLAYNIK

By: 
Michael J. Cherskov (Reg No. 33,664)